THE HONOUABLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION No.18063 of 2006

Between:

Miss. Megha Rani Agarwal. .. **PETITIONER**

and

The Commissioner,
Municipal Corporation of Hyderabad
and others. **.. RESPONDENTS**

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ORDER:

Heard Ms.Anjali Agarwal, representing the petitioner, Sri Rama Rao Ganta, learned Standing Counsel representing R-1 to R-3 and Sri Sharad Sanghi representing R-4.

The writ petition is filed for a Writ of Mandamus declaring the inaction of respondents 1 to 3 in initiating legal steps on petitioner's complaints, dated 10-03-2006 and 16-03-2006 as illegal, arbitrary, discriminatory, unconstitutional and in violation of Articles 14, 19 and 21 of the Constitution of India, and consequently direct respondents 1 to 3 to take immediate action against the 4th respondent on petitioner's complaints dated 10-03-2006 and 16-03-2006 and demolish the illegal and unauthorized construction at H.No.21-7-412, Shakkar Kota, Charkaman, Hyderabad-2, and pass such other suitable orders.

It is stated that the writ petitioner filed prior writ petition, W.P.No.14402 of 2006 showing Siddiqui Begum as the 4th respondent. But, however, it is stated that the subject matter is one and the same. In the present writ petition, Smt.Aysia Khatoon is shown as the 4th respondent.

The prior writ petition, W.P.No.14402 of 2006, was disposed of with the following directions:-

> "In the light of the stand taken by the learned Standing Counsel for Municipal Corporation, respondents 1 to 3 to initiate appropriate action in accordance with the provisions of Hyderabad Municipal Corporation Act, in relation to the unauthorized constructions complained of by the petitioner. It is needless to say that respondents 1 to 3 to expedite the

action."

Several factual details had been narrated in paras 2 to 7 of the affidavit filed in support of the writ petition.

The 4th respondent filed counter affidavit taking specific stand that the suit schedule property is only 92 sq. yards, being below 100 sq. yards, as per G.O.Ms.No.423 of 1998, dated 31-07-1998, there is exemption granted for the construction. Several other factual details had been narrated and it is also stated that O.S.No.4226 of 2006 was filed on the file of VI Junior Civil Judge, City Civil Court, Hyderabad. It is also stated that an order of status-quo was granted in the said suit, and on an interlocutory application, the same was vacated and as against that C.M.A.No.324 of 2006 on the file of Chief Judge, City Civil Court, Hyderabad, was filed and again an order of status-quo was obtained in the said C.M.A.

The learned Standing Counsel, representing Municipal Corporation, would submit that in view of the said status-quo order, the Municipal Corporation is unable to further proceed with the demolition activity. The learned Standing Counsel would also submit that it is a fact that no approved plan had been obtained by the 4th respondent. The said submissions are hereby recorded.

However, the specific stand taken by the counsel representing 4th respondent is that inasmuch as the question whether the subject matter of the writ petition is exempted or not, being the subject matter of the civil suit already pending, it would be just and proper to wait for the ultimate decision of the competent civil court in this regard.

Ms.Anjali Agarwal, learned counsel representing the petitioner, had taken this court through several factual details and would maintain that the stand taken by the 4th respondent is totally devoid of any bonafides.

Several other facts, which had been narrated in detail by Ms.Anjali Agarwal, need not be recorded at length. It is stated that the present writ petitioner is not a party in the said civil suit.

In the light of the facts and circumstances and also taking into consideration the respective stands taken by the parties, inasmuch as the 4th respondent already invoked in the jurisdiction of a competent civil court by instituting suit O.S.No.4226 of 2006 on the file of VI Junior Civil Judge, City Civil Courts, Hyderabad, liberty is given to the writ petitioner to implead herself as a party in the said suit and also implead herself as a party even in C.M.A.No.324 of 2006, referred to supra, if the petitioner is so advised and pray for appropriate orders, in the said proceedings. It is also made clear that the writ petitioner is also at liberty to move all other appropriate applications including the application for appointment of a Commissioner in the said suit, if the petitioner is so advised.

In the light of the specific stand taken by the learned Standing Counsel representing Municipal Corporation, this court is of the considered opinion that there appears to be urgency in the matter and hence, the learned Chief Judge, City Civil Court, Hyderabad, is hereby directed to dispose of C.M.A.No.324 of 2006 at the earliest point of time, preferably within a period of one month from the date of receipt of a copy of this order. Likewise, the learned VI Junior Civil Judge, City Civil Court, Hyderabad, also to dispose of the main suit itself within a period of three months from the date of receipt of a copy of this order. Meanwhile, liberty is given to the petitioner to move appropriate applications as referred to supra. It is needless to say that Municipal Corporation is also at liberty to move appropriate applications in the light of the specific stand taken by the learned Standing Counsel representing Municipal Corporation before this Court.

With the above observation, the writ petition is disposed of. No costs.

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15-12-2006

Note:

Issue C.C. by Monday.

(B/o)

Prv